IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.336 OF 2005

The State of Maharashtra ...Applicant

Versus

Nitin Shrikant Shetye ...Respondent

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Mr.A.S.Gadkari, A.P.P. for Applicant.

Mr.H.S.Shreepad Murthy for Respondent.

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CORAM: A.M.KHANWILKAR, J.

APRIL 12, 2005.

P.C.

1. Heard Counsel for the parties.

2. This Application is filed by the prosecution for cancellation of bail operating in favour of the Respondent. Respondent was released on bail by this Court on 30th June 2003. Certain conditions were imposed. According to the prosecution, the Respondent has breached condition requiring him not to enter jurisdiction of Lanja

Police Station.

3. It is the case of the prosecution that the Respondent nevertheless was found within the jurisdiction of Lanja Police Station on 20th May 2004 and in fact, came to be arrested in connection with some other criminal case registered against him for offence under Section 386, 387 and 120-B of the Indian Penal Code. It is seen that the Respondent has been released on bail in connection with the said offence. The present Application for cancellation has been filed almost after seven months.

4. In the meantime, the trial of the criminal case pending against the Respondent, in which he has been released on bail, has already commenced and 17 witnesses have already been examined by the Trial Court. Only seven more witnesses are to be examined. There is no allegation that the Respondent intimated any prosecution witness or has tried to influence those witnesses. Although the lapse of the Respondent of entering into

jurisdiction of Lanja Police Station, even if on one occasion, is sufficient ground to hold that he has violated the condition, but for the peculiar facts of the present case, as the Application for cancellation is filed almost after seven months and in the meantime, the trial has also progressed and 17 witnesses have been examined, instead of cancelling the bail, in my opinion, it would be in the interest of justice to pass the order, which I propose, which I would refer to hereafter.

5. Learned A.P.P. brought to my notice that there is one more violation of the bail condition of the Respondent. He has failed to attend the Registrar, Sessions Court, Ratnagiri, once in a week, as was required under orders of the Court. The Respondent has explained that only on two dates, he could not remain present before the Registrar, as he was apprehending arrest in respect of a case where he was to be falsely implicated, but lateron, he appeared before the Court and made Application, whereon appropriate orders have passed by the Court.

6. Accordingly, in addition to the conditions already recorded in the order dated 30th June 2003, this Application is disposed of requiring the Respondent to abide by the conditions mentioned herein as further conditions for bail already operating in his favour.

7. The Respondent shall report to Ratnagiri Town Police Station daily between 6.00 p.m. to 7.00 p.m., except on the dates when he is required to attend the Court case on specified dates.

8. Even if Respondent commits one default, that will be a ground to proceed to arrest the Respondent, without further orders from this Court. In other words, the order which I propose to pass is a self operating order that the bail already operating in favour of the Respondent shall stand cancelled, even if he commits one default to attend the concerned Police Station at Ratnagiri Town Police Station under this order. The concerned Police Officer shall give acknowledgement about the attendance made by the Respondent on every date of attendance and also require the Respondent to sign

the register to be maintained by the Ratnagiri Town Police Station for this purpose.

9. This order will come into effect from 21st April 2005, as I am informed that matter before the Trial Court is fixed on 20th April 2005.

10. All concerned to act on an ordinary copy of this order, duly authenticated by the Office.

A.M.KHANWILKAR, J.